

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 15,706
	)	
Appeal of	)	
	)	

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare terminating his Food Stamps. The Department has moved to dismiss this appeal because it has restored the petitioner's Food Stamp eligibility without a gap in coverage.

FINDINGS OF FACT

1. The petitioner is a man who is disabled by a mental illness (paranoid schizophrenia) and who has been a client of the Department of Social Welfare and Food Stamp recipient for a number of years.

2. In June of this year, the Department mailed a notice to all of its active Food Stamp clients telling them that a change was about to occur in the way benefits were paid to them. Instead of receiving checks or coupons, the Department would issue each recipient an "EBT" (Electronic Benefit Transfer) card which could be swiped at food check-out counters and cash machines to pay for purchases or to obtain cash from an account set up in the recipient's name.

All benefits would be transferred electronically to those accounts for each month. The petitioner believes he did not receive this notice.

3. In August of 1998, the Department sent the "EBT" cards to recipients via registered mail which required a signature for receipt of the card. A card was mailed to the petitioner but was returned by the post office to the central Food Stamp office. On September 4, 1998, an employee in the central office sent an e-mail notice to the petitioner's eligibility specialist telling him that the EBT card had been returned because the post office reported it was "refused at this address".

4. The specialist then checked the address to which the EBT card had been sent and noticed it was slightly different (an apartment number was in a different place) from the one which the Social Security Administration had on file.<sup>1</sup> The specialist had never met the petitioner and had only been assigned his case a few months before. He made a decision at that point to send the petitioner a notice of closure for the following month. The notice was mailed on September 11, 1998, and stated that the closure would take place because the petitioner's "whereabouts are not known".

5. The petitioner responded to that notice immediately by filing a request for a fair hearing which confirmed that he was still living at that address. When the eligibility specialist received that request, he reversed the closure

---

<sup>1</sup> The Social Security Administration shares its address data bases with the Department of Social Welfare. The petitioner is in the Social Security database because he receives disability benefits through that agency.

action at once and reinstated the petitioner's Food Stamps. On September 25, 1998, the specialist mailed the petitioner a notice advising him that he would receive \$125 in benefits for the month of October.

6. On October 26, 1998, the Department moved to dismiss this appeal alleging that the petitioner has no grievance since his Food Stamps benefits were completely restored. The petitioner does not agree, protesting that he has been treated badly by the Department, that he has still not received any Food Stamps, and that he fears that this might happen again in the future.

7. The petitioner presented documentation showing that he had been found eligible for Food Stamps at his last recertification until the end of November 1998, and that his certification notice contained his correct address which continues to be his current address. The petitioner agrees that he received a notice from the post office telling him to pick up some piece of mail but he did not know if it was from the Department of Social Welfare. He refused to say if he had attempted to pick up the mail or not. He did suggest that his reaction to this mailing, which required him to appear at the post office and sign a document, could be related to the symptoms of his illness. He repeatedly asked at hearing for information about how this return was handled by the post office but was informed that such a finding was beyond the scope of the hearing since no one from the post

office was present to testify.

8. The Department attempted to assure the petitioner that the money for all months at issue was in the petitioner's EBT account and that he could access all of it as soon as he got his EBT card. The EBT card is being held in the central office, apparently because the Department did not know how to get it to the petitioner. The fear, hostility and combativeness which the closure action and motion to dismiss generated in the petitioner has been a severe hindrance for the Department in discussing a resolution of the card delivery problem with him. The eligibility specialist agreed at hearing that an intermediate step (such as contacting the petitioner to confirm his address) short of closure should have been taken in an attempt to resolve the problem in a less provocative manner. After an extended attempt to explain the new benefit payment process to the petitioner at the hearing, he agreed that the card could be sent to him through the regular mail which the Department promised to accomplish at once. The petitioner was also advised that he could obtain literature on how to use the card or watch a short video on its use if he so desired.

ORDER

The motion of the Department to dismiss this appeal is granted.

REASONS

The statute governing appeals to the Human Services Board provides:

(a) An applicant for or a recipient of assistance, benefits or social services from . . . the department of social welfare . . . may file a request for a fair hearing with the human services board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because he is aggrieved by any other agency action affecting his receipt of assistance, benefits or services . . . or because he is aggrieved by agency policy as it affects his situation.

3 V.S.A. § 3091

At this point, the Department has agreed to provide promptly all Food Stamp benefits to which the petitioner is entitled under the program. There is no relief which the Board can now give the petitioner. It can not take back the actions closing his benefits nor the distress it caused him.

Nor can it order the Department not to make mistakes in the future. What the Board can offer the petitioner is an apology for what occurred and the expectation that due care will be taken by the Department in the future to handle his case (and all cases) in a way which is sensitive to his needs and avoids unnecessary hardship.

# # #